

# **IMPROVEMENT CARE TRUST AGREEMENT**

This trust agreement is made and entered into by and between \_\_\_\_\_, a Tennessee Corporation, having its principal located office in \_\_\_\_\_ County, Tennessee, and additional offices in \_\_\_\_\_ County, Tennessee, hereinafter referred to as the "Cemetery Company" and \_\_\_\_\_ in \_\_\_\_\_, Tennessee, a corporation having the right and power to act in a fiduciary capacity as Trustee, and hereinafter referred to as the "Trustee".

## **ITEM 1**

### **TRUST PRINCIPAL AND ADDITIONS**

The "Cemetery Company" hereby transfers and conveys to the "Trustee", in trust, the property described on Schedule 1 hereto attached upon terms and conditions hereinafter set forth. The "Trustee" hereby acknowledges receipt thereof and agrees to perform the duties herein imposed upon it. Upon the consent of the "Trustee", the Cemetery Company from time to time may transfer and convey additional property or make deposits to this trust, to be held in accordance with the provisions hereof, and the receipt of any such additional property or deposits by the "Trustee" shall be indicative of the Trustee's consent to hold such property or deposits.

## **ITEM 2**

### **PURPOSE OF TRUST**

The purpose of this trust is to establish a perpetual and irrevocable trust fund in accordance with Tennessee Code Annotated §46-2-302 for the benefit of owners and holders of burial spaces in \_\_\_\_\_. The net income from this trust shall be used for the improvement care of the cemetery grounds as defined in Tennessee Code Annotated §46-1-102(11). The "Cemetery Company", however, is bound by law and is herein bound to furnish such care only insofar as the net income derived from this trust fund will permit, and the "Trustee" shall not be required to look to the application of such income.

## **ITEM 3**

### **TERM OF TRUST**

This trust shall be irrevocable, and the fund established hereby shall exist in perpetuity; provided, however, the "Cemetery Company" may change the "Trustee", provided any successor trustee is a trust company approved by the Commissioner of the Department of Commerce and Insurance of the State of Tennessee or a state or national bank or a savings and loan association having insurance of accounts as provided by the law.

## **ITEM 4**

### **DEPOSITS BY CEMETERY COMPANY**

4-a. AMOUNT: The Cemetery Company agrees to deposit in this trust fund not less than the following minimum amounts:

- (1) For land, but not including lawn crypts, fifty cents (50¢) per square foot of the land sold or twenty percent (20%) of the total sales price, whichever is the greater;
- (2) For a lawn crypt, twenty percent (20%) of the total sales price of the land excluding the lawn crypt, or fifty dollars (\$50), whichever is greater;
- (3) For a mausoleum, crypt or niche, not less than ten percent (10%) of the total sales price;
- (4) For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial marker or monument, the full amount received;
- (5) For a commodity, the full amount received for memorial care.

The "Cemetery Company" shall be permitted to make deposits in excess of the foregoing minimum amounts; deliberate excess deposits shall not be credited toward any future liability. The "Trustee" shall not be required to see that such minimum amounts are paid in.

4-b. TIME OF DEPOSITS: Deposits shall be made by the "Cemetery Company" not later than thirty (30) days after the close of the month in which the final payment was received on the purchase price of each lot, grave space, crypt or niche, family mausoleum or memorial care. The "Trustee" shall not be required to see to the timeliness of any such deposits.

#### **ITEM 5**

#### **PAYMENT OF INCOME**

The "Trustee" shall pay the net income from this trust to the "Cemetery Company" at quarterly intervals or at such other intervals as may be agreed upon from time to time by the parties hereto. While a cemetery for which an improvement care trust has been funded is not being operated by its owner, the "Trustee", in the trust officer's discretion, may disburse net income from the trust to compensate any responsible person for work performed or expenses incurred in the improvement of the cemetery as authorized by Tennessee Code Annotated §46-2-302(e)(2).

#### **ITEM 6**

#### **INVESTMENT**

In investing these funds, the "Trustee" shall exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering probable income and capital appreciation as well as the probable safety of their capital. Within the limits of the forgoing standard, the "Trustee" is authorized to acquire every kind of property, real, personal or mixed, and every kind of investment, specifically included, but not by way of limitation, corporate obligations of every kind, and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire for their own account.

#### **ITEM 7**

#### **ACCOUNTING**

The "Trustee" shall render each year to the "Cemetery Company" a written account of the administration of the trust, and its books shall at all reasonable times be open for inspection by the "Cemetery Company" to the Cemetery Company's properly authorized agent. The "Trustee" shall also furnish to the Commissioner of Commerce and Insurance of the State of Tennessee such reports as required by the Commissioner.

#### **ITEM 8**

#### **COMPENSATION**

The "Trustee" shall receive as compensation for its services the fees provided for by its uniform schedule of fees adopted by its Board of Directors and in effect at the time the services are rendered; and in the absence of such schedule, it shall receive reasonable compensation for its services.

#### **ITEM 9**

#### **RESIGNATION**

The "Trustee" reserves the right to resign as "Trustee" upon written notice of at least thirty days in advance of effective date of resignation and delivered to the "Cemetery Company" by means of confirmation.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_

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